

DELAWARE REAL ESTATE COMMISSION
861 Silver Lake Boulevard
Dover, Delaware 19904

RESIDENTIAL PROPERTY MANAGEMENT¹

Course Description: This six (6) hour credit course is designed to acquaint the sales license with duties and responsibilities of property management; Review types of properties, principles, documents, and agency relationship; Review legal requirements of leasing and management; Review property manager functions including tenant relations, rent collection, and maintenance; Review duties, ethics, and risk management of the property manager.

Instruction: The curriculum requires three certified instructors: 1) a practicing Delaware resident licensee with a minimum of five years experience in the property management field; 2) a Delaware attorney with an expertise in real estate law issues; 3) a Delaware licensed property and casualty insurance professional.

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 - C. Hiring and supervision of employees
 - D. Budgeting and expense control procedures
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¹ The outline and teaching materials were prepared by a sub-committee of the Delaware Real Estate Commission and are solely for educational purposes. The outline and materials contained herein do not constitute legal opinion or advice and should not be relied upon for such purposes.

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RESIDENTIAL PROPERTY MANAGEMENT

I. The Property Manager

- A. Leasing- As with general brokerage real estate, pricing is a direct factor of rental supply and demand. Therefore, the current vacancy rate is a viable indicator of the election to increase or decrease future rental rates. An area with limited rental availability reflects a possible rental rate increase and conversely a high vacancy rate indicates no increase and possibly a decrease. Rental rates must also be compared to comparable properties in the immediate area.
- B. Managing- Determined by the management agreement:
 - 1. Complying with legal requirements
 - 2. Selecting tenants
 - 3. Setting rates
 - 4. Budgeting (including a reserve fund for repairs etc.)
 - 5. Rent collection.
- C. Marketing- Selection of surrounding geographical area wherein direct mail “farming” for tenants would prove productive. Print marketing to include high circulation/distribution newspaper and magazine. Providing marketing budget would support the expenses media marketing including television, internet and radio venue.
- D. Maintenance- Consideration must be given to the initial cost of equipment and materials purchases as well as an estimate as to the useful life of this expense; i.e. life cycle costing. The operating and initial cost of equipment purchase is compared to other equipment prior to the investment, including equipment warranties. Effective management of the capital purchase allows for the depreciation of the expense over the anticipated life of the initial expenditure.

II. Duties to the Client

- A. Financial Management.
 - 1. State Escrow Management Statute- states that security deposit shall be placed in an escrow bank account in a federally-insured banking institution with an office that accepts deposits within the State.
 - 2. Security Deposit Management- Security deposit is held in escrow and returned to tenant, upon vacating premises, less any damage charges, unpaid rents or late fees and unpaid utilities which would become a lien on the property, without interest.
 - 3. Internal Accounting Practices- Keep accounting records of all monies received and paid out.

4. Internal Money Management- Collect all rents, security deposits, fees and late charges. Get estimates for repairs. Pay landlord and contractors, if repairs are needed on dwelling.
- B. Physical Management
 1. Do walk-thru on property. Ride by to check grounds on regular schedule.
- C. Administrative Management
 1. Make sure files and records are up to date and correct.
- D. Asset Management Valuation Issues
 1. Market rent- supply and demand.
 2. Market Cap Rate- Know what comparable properties are bringing for rent.
 3. Recent sales- Know the comparable sales.

III. Maintaining Client Investment

- A. Interviewing tenants, setting rates (Residential and Commercial examples)
- B. Rent collection; times, places, penalty and cancellation provisions
- C. Hiring and supervision of employees
- D. Budgeting and expense control procedures
- E. Accounting Procedures
- F. Property manager/owner relations

IV. General Property Maintenance

- A. Staffing- Determined by maintenance objectives of the property owner and manager when considering location and type of rental property. Objective is to have a well maintained property thereby allowing superior rental rates.
- B. Physical Property Maintenance Requirements- General objective is to maintain the overall quality condition of the property during the term of the management agreement.
 1. Preventative Property Maintenance- Regularly scheduled maintenance including servicing of all central heating, air conditioning, hot water and appliance systems.
 2. Corrective and Routine Maintenance- Corrective maintenance including plumbing and system repairs. Routine includes regular landscaping maintenance, cleaning common areas and building structure maintenance.

V. Risk Management-

Due to financial losses that may result from unexpected management situations, the property manager must consider risk management; weighing the options available should

something unforeseen take place during the management period. The risk management options include:

- A. Avoid the risk- The property manager must utilize common sense when surveying the managed property and surrounding area including removing hazards that unnecessarily present a risk to those occupying the property.
- B. Control the risk- Based on the size of the managed property, advance preparation is essential for the property manager including but not limited to; 24 hour security monitoring system, interior unit/common area sprinkler systems, and fire containment measures.
- C. Transfer the risk- A vital function of the property manager is to secure adequate insurance to cover perils that could occur on the property. On-site inspection of the property by one or more qualified insurance broker/agent(s) will accomplish this objective.
- D. Retain the risk- Electing to retain the risk with the assumption that the possibility of loss due to an event occurring is minuscule. Unforeseen events can take place, such as tidal wave; where insurance secured with a large deductible reducing the annual premium may be applicable.

VI. Insurance Provisions-

The intent of insurance within this context should aim to provide financial compensation to an individual or business as a result of a covered loss. The timeframe for compensation should allow minimal disruption due to loss of property and/or business income (termed business interruption). Casualty insurance, such as general liability, further serves to protect assets from legal actions usually related to bodily injury or property damage (to others) as defined in the policy. Employers Liability/Workers Compensation is yet another casualty coverage designed to pay medical bills and loss of wages on behalf of injured employees allowing 'return to work' with minimal financial hardship. Overall, insurance is very broad in scope and more specific research is often needed depending on the type of business and lease provisions. Good planning here can go a long way in preventing financial hardships (i.e. a broken lease) after a property or casualty loss.

- A. Fire and Hazard-
Property coverage should be broad enough to cover perils beyond fire and wind damage alone. It is best to specify that buildings and/or contents be insured on a **Special** (formerly termed All Risk) coverage form. This provides quite comprehensive coverage, usually including occurrences well beyond fire such as vandalism, theft or even water damage due to broken pipes. A standard fire or basic policy form will not include such perils.

It is also best to request contents be insured to their **Full Replacement Value**, on a policy noting **Replacement Cost Valuation** which will help assure minimal (if any) depreciation once replaced. Most business and homeowners do not have their insurance limits keep pace with today's replacement cost trends.

B. Consequential-

It is recommended that a business policy have **Loss of Income/Extra Expense** included within the coverage. Quite often, the loss of income will substantially exceed the amount of the contents loss. As an example, a business may only carry a \$100,000. limit of business personal property (contents), however, the resulting income loss for three or four months could be several times that amount for many businesses. Many policies automatically include LI/EE for a maximum of 12 months as opposed to a stated dollar amount which is a plus.

In addition, a business having **Contents of Others** in their care, custody or control should review this coverage limit which is usually stated separate from their own contents limit. There are many ways to accomplish this (bailee's form) but certain businesses such as dry cleaners or repair shops have a significant exposure and their responsibility for the loss of customers goods may be greater than their own.

C. Contents/personal property-

It is usually specified in a lease that a tenant will take responsibility to insure their own **Business Personal Property (Contents)** along with improvements and Betterments (build-out/customizing) to the leased premises. Often these limits are combined under one contents limit for the tenant.

D. Liability/Workers' Compensation Acts-

Although most leases do not address this coverage, it is law in most states that a business with employees (even part time) carries **Workers Compensation**. This will provide medical benefits and loss of wages resulting from job related injuries or diseases. The premium varies widely depending on the exact job classification of each employee. As an example, the clerical class carries a low rate, usually less than 1% of payroll, where a carpenter is about 20 times higher. Included in the same policy will usually be **Employers Liability** which protects the business against specific types of legal actions by employees.

E. Casualty-

Public Liability/General Liability (in this context) is usually required in a lease. It is important that the landlord specify for the tenant to carry proper limits usually not less than \$1,000,000. per occurrence/ \$2,000,000. aggregate. It is not uncommon that a landlord will require the tenant to name them as Additional Insured on the policy which is usually not expensive. This provides a better chance that a liability action involving the tenant's area will be resolved by the tenant's carrier.

The General Liability section of a policy also includes a separate limit for **Fire Damage (or Fire Legal Liability)**. It is widely misunderstood that the tenant's general liability will cover fire damage to the building due to the tenant's negligence, for the portion leased by the tenant (generally the area within the tenants care custody & control). Therefore, the standard \$100,000. limit of Fire Legal Liability may not be adequate to replace the area of leased space. Quite often increased limits of Fire Legal Liability should be requested in an amount great enough to rebuild the leased area. Should a fire caused by the tenant's negligence spread beyond the leased area, the general liability limits usually would apply.

F. Surety Bonds-

Surety Bonds are usually required to protect a party (termed the obligee) from financial insolvency of another party (the principal) for the contractual obligations to complete a contract. Bond requirements vary widely and bond underwriting is reviewed on a financial basis often requiring a financial statement for approval. Fidelity bonds are yet another type that may compensate a business or third party from employee dishonesty. Usually neither is specified in a lease requirement.

G. Claims procedures-

In the case of a loss it is normal course for the party sustaining a loss to contact their own insurance carrier. In the case of a property loss, an adjuster will usually be assigned to determine if the peril causing the damage was within the coverage scope. Arrangements will then be made with the business owner for the replacement of the item(s). Should an injury occur on the premises such as a 'slip and fall' both the landlord and tenant should report the occurrence to their carriers. Often times a legal action will request that both to respond with their insurance carrier information. On occasion, one carrier may subrogate against the other in either property or casualty losses.

VII. The Property Management Agreement

- A. Property description
 - 1. Physical Location of the property and what is included.
- B. Duration and termination provisions
 - 1. Duration is written in rental contract and Lease Agreement.
 - 2. Termination constitutes a 60 day notice from landlord and tenant as per Landlord-Tenant Code.
- C. Manager responsibilities/reports
 - 1. Procure tenant, advertising of the rental premises, credit report, execute the lease & extensions, collecting rent, maintenance & producing monthly transaction reports.
- D. Owner objectives
 - 1. Diligent effort to procure tenant.
- E. Manager's authority

1. Same as landlord.
- F. Manager compensation
 1. Client/Owner pays a commission negotiated between client/owner and broker
- G. Manager/Owner allocations of expenses
 1. Manager allocates expenses with owner's approval.
- H. Equal Opportunity provisions
 1. Provided on rental application.
 2. Brokers and sales associates are required by law and/or National Association of Realtors Code of Ethics to treat all parties in a property transaction fairly without regard to race, religion, national origin, ancestry, sex, age, marital status, sexual orientation, presence of children or physical or mental handicaps.

VIII. Licensing Requirements

- A. Who is on the commission, 24 Del.C. §2902
 1. 9 Members appointed by Governor
 - a. 5 Professional Members
 - (1) 4 licensed brokers- 1 from each county and 1 from Wilmington
 - (2) 1 licensed salesperson
 - b. 4 public members- at least 1 from each county
 - c. All 9 are residents of state for 5 years immediately prior to appointment.
 2. Three year terms with 2-term limit.
 3. Meets at least 1 time per calendar quarter.
- B. Powers and Duties of the Commission, 24 Del.C. §2905
 1. Adopt and revise rules and regulations
 2. License and renew licenses of qualified applicants
 3. Conduct discipline hearings
 - a. Issue subpoenas and compel attendance of witnesses
 - b. Administer oaths
 4. Cause prosecution of persons violating Real Estate License Act
 5. Keep records of all proceedings
 6. Make annual report to Governor
 7. Contract with National Testing Service for Licensing Exams.
- C. Primary Objective of Commission, 24 Del.C. §2829
 1. Protect general public from unsafe practices and from occupational practices which tend to:
 - reduce competition
 - Fix the price of services
 2. Maintain and establish minimum standards of license competency

3. Establish and maintain certain standard for the delivery of services to the public

D. Certificate Requirement(license), 24 Del.C. §2906

No person shall act as a broker or salesperson without being registered and without a certificate of registration issued by the commission.

1. Definition of Broker- 24 Del.C. § 2901(a)(2)-
“Real Estate Broker” means any person who, for a compensation or valuable consideration, sells or offers for sale, buys or offers to buy, or negotiates a purchase, sale or exchange of real estate or who leases or offers to lease or rents or offers for rent any real estate or the improvements thereon for others, as a whole or partial vocation, but shall not include an auctioneer as defined in §2301(a)(3) of Title 30.
2. Definition of Real Estate Salesperson- 24 Del.C. § 2901(a)(3)-
“Real Estate Salesperson” means any person who, for compensation or valuable consideration, is employed, either directly or indirectly, by a real estate broker, to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or lease or rent or offer for rent any real estate, or to negotiate leases thereof or of the improvements thereon, as a whole or partial vocation, but shall not include an auctioneer as defined in §2301(a)(3) of Title 30.

Exceptions: Property Manager, POA- 24 Del.C. § 2901(b)(1);
Attorney, Trustee, Receiver- 24 Del.C. § 2901(c)

E. Qualifications for Certificate as Salesperson- 24 Del.C. § 2907

1. Competent to transact business of salesperson as determined by DREC.
2. Provide required information on application from Board
 - a. Application shall not require:
 - (1) Picture
 - (2) Citizenship Information
 - (3) Place of Birth
 - (4) Length of residency
 - (5) Personal references
3. Pass uniform national and state examination within 1 year of completing course
4. No felony convictions, professional penalties, drug addictions, fraud convictions
5. Successfully complete accredited course in real estate practice
6. Minimum Age-

- Salesperson- 18
7. Must pay required fee to Division of Professional Regulation
- F. Requirements for Broker Certificate- Rule 3.0
1. Complete accredited course within 1 year of application
 2. Active real estate professional for 5 continuous years
 3. Submit list of 30 sales or other qualified transactions within previous 5 years
 4. Pass required examination within 1 year of completing brokers course
 5. Submit all necessary documentation, including credit report
 6. Demonstrate ability to transact business in competent manner
 7. Minimum age 23(must be salesperson{minimum age 18} for 5 years)
 8. Pay required fee
 9. Must be an individual- no corporation/partnership shall be licensed § 2910. Every officer of corporation acting as broker must be licensed as a broker or salesperson.
- G. Non-resident License for Brokers and Salespersons § 2909 and Rule 4.0
1. Must be licensed and engaged in real estate business in another state.
 2. No disciplinary proceedings or unresolved complaints.
 3. Does not need an office in Delaware
 4. Does not need examination
 5. Non-resident broker licensed in another state may receive non-resident broker's license.
 6. Non-resident salesperson licensed in another state may receive sales license as long as he/she is employed by a licensed Delaware broker.
- H. Renewal of Certificates/Reinstatement- 24 Del.C. § 2911; Rule 8.0
1. Due April 30th every 2 years
 2. 15 hours of continuing education within past 2 years
 3. Pay required fee
 4. After 60 days, license cancelled
 - reinstated after payment of delinquency fee
 - After 6 months, must retake state examination
 - After 2 years, must retake state and national examination
 5. After licensed revoked, can reinstate
 - Must wait 2 years
 - Pass real estate course
 - Take state and national examination
 - Complete other criteria established by Commission
 6. Broker must certify to DREC that Agent has met C.E. requirements

7. § 2921-Inactive status- can place on inactive with DREC indefinitely as long as keeping up on CLE.

I. Revocation of Certificate/Disciplinary Actions

1. Grounds for reprimand/suspension/revocation
 - a. Obtaining certificate through false/fraudulent representation
 - b. Guilty of:
 - (1) Substantial misrepresentation
 - (2) Making a false promise of character likely to influence, persuade or induce
 - (3) Continual and flagrant course of misrepresentation or false promises through agents, salespersons, advertisements or otherwise
 - (4) Acting for more than 1 party in transaction without knowledge and written consent of all parties represented(undisclosed dual agency)
 - (5) Failing, within reasonable time, to account for or remit monies that belong to others.
 - (6) Being incompetent to act as broker or salesperson in such manner to safeguard interest of public
 - (7) Paying a commission or valuable consideration to any person for acts or services performed in violation of this chapter(non-licensed person)
 - (8) Violating a rule or regulation of the Commission
 - (9) Receiving a kickback without making prior written disclosure to party in transaction
 - (10) Violation of Delaware Consumer Fraud Act
 - (11) Misrepresenting the availability/content of Seller's Disclosure of Condition of Real Property form
 - (12) Any other conduct, whether same or different from specified in this section, which constitutes improper, fraudulent or dishonest dealings.
2. Rule 7.5 Compensation
 - a. NOT allowed to receive compensation from more than one party to transaction without disclosure to all parties in transaction.
 - b. Agent may not accept commission, rebate or profit on expenditure made for his principal without principal's knowledge and consent.
3. Rule 12.0- Inducements
 - a. Agents cannot share commissions or commissions income with non-licensed persons as an inducement to secure business.

- b. Agent can give discount or rebate on commission to purchaser or seller in a transaction.
 - c. Agent must disclose in writing to his principal that he/she is giving rebate or discount to buyer.
- 4. Effect on Salesperson sanctions on broker
 - Sanctions against salesperson shall not cause sanctions against Broker unless Broker had knowledge thereof.
- 5. Certificate shall be suspended or revoked if holder of convicted of:
 - a. Forgery
 - b. Embezzlement
 - c. Obtaining money under false pretenses
 - d. Bribery
 - e. Larceny
 - f. Extortion
 - g. Conspiracy to defraud
 - h. Entered plea bargain of guilty or nolo contendere to similar offenses
 - i. Similar offenses
- J. Disciplinary Hearings- § 2913 & § 2914
 - 1. Hearings required
 - a. Denial of Application
 - b. Imposition of disciplinary action
 - 2. Notice of hearing
 - a. Must be more than 10 days before hearing
 - b. Delivered personally or certified mail to last known address
 - c. If salesperson, broker also receives notice
 - 3. Procedure at hearing
 - a. Certificate holder may be presented by attorney
 - b. Commission may subpoena witnesses
 - c. Commission shall set time and place of hearing
 - d. Certificate holder can present evidence and witnesses on his/her behalf and cross-examine witnesses
 - e. Appeals of decision to Superior Court within 30 days
 - 4. Remedial Actions and Sanctions § 2914
 - a. Public reprimand
 - b. Issue public letter of reprimand
 - c. Probation with following requirements
 - (1) Report to Commission regarding violation
 - (2) Limit practice area
 - (3) Additional continuing education

- d. Civil Penalties
 - (1) Maximum Fine- \$1,000.00
 - (2) If Certificate revoked or forfeited, no fine
 - e. Suspend Certificate
 - f. Revoke Certificate
- 5. Revocation of Broker's License § 2916
 - Automatically suspends any real estate salesperson's certificates. However, Rule 1.3.2 provides arrangements can be made with DREC for another broker to serve as Broker of Record on a temporary basis.
- K. Broker Place of Business § 2919
 - 1. Every broker who is a Delaware resident shall maintain an office in Delaware.
 - 2. License shall be prominently displayed at office
 - 3. Conspicuous sign shall be outside of office
 - 4. Multiple Offices
 - a. Copies of license at each location
 - b. Branch office must be approved by Commission
 - c. Branch must also be supervised by broker
 - d. Each branch office must have a broker of record. However, it can be managed by a salesperson or broker who is not broker of record.
 - 5. Change of Location § 2920
 - a. Written notice must be provided to Commission
 - b. Failure to notify Commission shall automatically cancel license
 - c. New Certificate issued at no charge
 - 6. Home Office- Rule 7.4
 - a. Must be approved by DREC
 - b. Must have separate entrance
 - c. Broker must put up permanent sign in conspicuous location
- L. Termination of Salesperson's Employment § 2921
 - 1. Notice
 - a. Broker shall immediately notify Commission
 - b. Broker shall also notify salespersons at last known address.
 - 2. Salesperson shall not work until Commission issues new Certificate showing new broker.
 - 3. Inactive status- salesperson can put license on inactive status indefinitely as long as C.E. requirements are met and biennial registration fees are paid.

- M. Transfer of a Broker or Salesperson- Rule 6.0
1. Brokers/Salesperson must have transfer from signed by current broker and submit to DREC before license can be transferred.
 2. Non-resident licensees must also provide current certificate of licensure.
 3. DREC can waive requirement on showing good cause.
 4. Brokers of Record moving physical office location must give 30 days written notice prior to such move by making a new office application.
- N. Real Estate Guaranty Fund_§ 2922
1. Available for any person who obtains a final judgment against broker or salesperson for:
 - a. Loss or damage sustained by theft
 - b. Fraud
 - c. Misrepresentation
 - d. Deceit
 2. Maximum recovery amount- \$25,000/transaction
 3. Aggrieved person must show:
 - a. Judgment has been obtained
 - b. Not a spouse of judgment debtor
 - c. Compliance with procedural requirements of this section
 - d. Exhausted all available remedies to collect debt
 4. Upon payment from Commission, Salesperson/Broker **must** be suspended/revoked until amount repaid
 5. Minimum Balance of Fund- \$250,000.00
 6. Fund supplemented by \$25.00/renewal fee from salespersons & brokers
- O. Trust Fund Accounts- § 2923
1. All deposits must be accounted for at all times
 2. Salesperson shall be promptly pay over deposits to broker
 3. Broker shall place all deposits-earnest money, rental money, client funds- in escrow account
- P. Psychological Impacts § 2930
1. Definition
 - a. Site of homicide, suicide or other felony except arson
 - b. Occupant infected with AIDS or other disease determined by medical evidence to be “highly unlikely to be transmitted through the occupancy of a dwelling place.”

2. Disclosure Requirement
 - a. Owner/Agent NOT required to disclose homicide, suicide felony unless requested in writing.
 - b. Never required to disclose knowledge of AIDS/HIV
3. Upon receipt of written request, about psychological impact
 - a. Owner shall answer questions truthfully to best of owner's knowledge
 - b. Agent has no duty to inquire/investigate
 - c. Agent shall not disclose AIDS/disease information even if buyer specifically asks in writing.

Q. Agency/Disclosure- § 2931; Rule 10.0

1. Licensee must declass in writing who licensee represents
 - a. Disclosure made to all parties to transaction if:
 - (1) Licensee does not represent but has substantive contact such as prospective sellers, buyers, lessors, lessees
 - b. Disclosure made at first substantive contact with person licensee does not represent
 - c. In all cases it must be made prior to presenting offer to purchase. Written confirmation of disclosure must be in the contract- Rule 10.3
2. If Agent is owner, buyer, lessor or lessee, or has any personal interest in transaction, must disclose status of licensee to all persons in transaction prior to signing agreements. Agreements must include such disclosure- Rule 10.1
3. Promotions of "If we can't sell your house, we guarantee to buy it" shall disclose with listing agent
 - a. Price licensee will pay
 - b. Limit of 60 days to settle after expiration of listing agent
4. Right of Refusal/Back-up Offers- Rule 10.4
 - a. existence must be disclosed by listing agent at time appointment to see property is made.

R. Business Transactions and Practices- Rule 7.0

1. Handling documents
 - a. All listing agreements shall be in writing and signed by seller or owner.
 - b. Every party to agreement shall get an executed copy within reasonable time after execution.
2. Advertising- Rule 7.3
 - a. If licensee markets his/her own property, as FSBO, must disclose in all ads that owner is licensee. Dies not apply to signs.

- b. All ads by salesperson must list broker's name and broker's office location telephone number. NO limit on additional telephone numbers- home, cell, etc.
 - c. All advertised offers to purchase must state that buyer is licensed real estate agent.
 - d. Personal promotion materials- must include business name registered with Commission and broker's office telephone number.
- 3. Necessity of License- Rule 13
 - a. Only license can host an open house
 - b. Site agent at new construction must be licensee, but non-licensee under direct supervision of builder is acceptable
- 4. Handling Money- 5.0
 - a. All deposits must be deposited by broker within 3 banking days
 - b. Salesperson must deliver deposits immediately
 - (1) Unacceptable form of deposit
 - (a) photocopy of check
 - (b) post-dated check
 - (c) fax of check
 - c. Broker may not co-mingle funds (except \$100.00 to maintain account)
 - d. Broker must keep accurate records
 - e. Broker must have Delaware bank with Delaware office.

IX. Delaware Landlord Tenant Code

- A. Fair Housing Provisions
 - 1. Broad anti-discrimination provisions including race, creed, religion, marital status, color, sex, national origin, disability, age, occupation, or having a child or children (5116)
 - 2. Landlord may rent solely to senior citizens (62+ regardless of spouse's age) (5116(d)).
- B. Application Fees
 - 1. "Assurance money" prohibited (5310). Any payment to Landlord other than security deposit, application fee, pet deposit, for reserving the unit is prohibited.
 - 2. Prohibited Fees (5311). Any non-refundable fee charged as a condition of occupancy. Optional pool or tennis court fee is permitted.
 - 3. Fee for credit check is application fee (5514(d)). Landlord may not charge more than the greater of 10% of monthly rent or \$50.00.

- C. Term of Rental Agreement/Extensions/Rent Increases/Modifications
 - 1. Unless otherwise provided, term is month to month (5106(b))
 - 2. Agreements for one year or more require a minimum of 60 days written notice by either party prior to expiration of term (5106(c)). If no notice from Landlord and Tenant does not give 45 days notice, term becomes month to month (5108(a)).
 - 3. Month to Month - 60 days written notice by either party. Sixty (60) days begins to run on first day of month following actual notice (5106(d)).
 - 4. Rent and Security Deposit increases and modification of terms require a minimum of 60 days' written notice (5107). If Tenant fails to reject new terms within 45 days of end of term, new terms accepted. If Tenant rejects within 45 days of end of term, lease is terminated as of end of term.

- D. Special Tenant Termination Rights
 - 1. Upon thirty-day written notice beginning on the first day of the month following the day of actual notice (5314(b)):
 - a. Change in location of tenant's employment by tenant's present employer requiring a change in location of residence in excess of thirty miles (5314(b)(1)).
 - b. Serious illness of the tenant or the death or serious illness of a member of his immediate family residing therein requiring a change in location of residence on a permanent basis (5314(b)(2)).
 - c. When tenant is accepted for admission to a senior citizens housing facility (5314(b)(3)).
 - d. When tenant is accepted into subsidized public or private housing (5314(b)(4)).
 - e. Person entering military service after signing rental agreement (5314(b)(5)).
 - f. Surviving spouse or personal representative of estate of tenant upon death of tenant (5314(b)(6)).

- E. Access and Locks
 - 1. Tenant shall not unreasonably withhold consent to landlord to enter unit to inspect, make necessary repairs, supply services or exhibit the unit (5509(a)). Landlord shall give tenant at least forty eight hours notice of intent to enter except for repairs requested by tenant shall do so between 8:00 a.m. and 9:00 p.m. (5509(b)). Tenant may waive forty eight hour notice in lease. (Id.) Landlord may enter at any time in case of emergency. (Id.)
 - 2. Tenant may install own lock at tenant's own cost if tenant supplies landlord with a key, new lock fits system already in

place lock installation does not cause damage to the door and gives written notice to landlord (5509(a)).

3. Penalties for landlord abuse of access (5510). This section also allows landlord to obtain injunction against tenant unreasonably refusing access.
4. Locks must be changed after eviction if premises to be lease out (5715(h)).

F. Security Deposit

1. No more than one month's rent for agreements for one year or more (5514(a)(2)). Limit does not apply to furnished unit (5514(a)(4)).
2. Must be kept in federally insured escrow account (5514(b)). Landlord must advise Tenant of location of account. Landlord entitled to interest.
3. Purpose (1) to reimburse landlord for actual damages which exceed normal wear and tear which cannot be corrected by painting and ordinary cleaning; (2) to pay landlord for all rental arrearages due under the rental agreement, including late charges and rental due for premature termination or abandonment of the rental agreement by the tenant; or (3) to reimburse landlord for all reasonable expenses incurred in renovating and renting the premises caused by the premature termination of the rental agreement by the tenant, including permissible terminations under 5314. (5514(c)).
4. Procedures for return of security deposit.
 - a. Landlord to provide tenant with itemized list of damages and estimated cost of repair of each and to tender payment for difference within 20 days after termination (5514(f)). Failure of landlord to provide list constitute acknowledgement that no damages are due (5514(f)). Acceptance of tendered deposit by tenant constitutes agreement on damages unless tenant objects in writing within 10 days of receipt.
 - b. Failure to remit the deposit within 20 days from expiration or termination of rental agreement shall entitle tenant to double the amount of security deposit (5514(g)).
 - c. Tenant must provide forwarding address (5514(h)). Failure to provide relieves landlord of liability for double the deposit.
 - d. Tenant must make claim for security deposit within one year (5514(h)).

G. Repairs and Essential Services; Landlord

Obligation and tenant Remedies (5308)

1. If fails to provide hot water, heat, water, electricity or remedy any condition which materially deprives tenant of a substantial part of the benefit of bargain of rental agreement or violates applicable housing code or code, tenant may terminate upon written notice to landlord after failure continues for 48 hours or withhold 2/3 per diem rent.
2. If fails to provide adequate water, hot water, electricity and heat, rent abates and tenant may:
 - a. Upon written notice, immediately terminate;
 - b. Find substitute housing and landlord liable for up to one-half of abated rent;
 - c. Upon written notice to landlord, withhold two-thirds per diem rent.
3. Wrongfully withholding of rent entitles landlord to double damages plus costs in action for possession (5308(d)).

H. Evictions- Summary Proceeding for Possession

1. Tenant's Responsibilities and Landlord's Remedies (5501)
 - a. Tenant must pay rent
 - (1) Rent as set forth in rental agreement or reasonable amount (5501(a))
 - (2) Late charge not exceeding 5% of monthly rent and cannot be imposed until a minimum of five days after rent is due. If landlord's rental office is not in county where unit is located, three-day grace period. Late charge is considered additional rent. (5501(d)).
 - (3) Penalty for non-payment of rent: Any time after rent is due, landlord may demand payment and notify tenant in writing that unless payment is made within a time mentioned in such notice, not less than five days after date notice was given or sent, the rental agreement will be terminated. If the tenant remains in default, the landlord may thereafter bring an action for summary possession (5502(a)). Landlord may bring action for rent alone. If tenant pays rent before action for possession and landlord accepts same without written reservation of rights then action for rent or possession is barred. (5502(c)). If tenant pays rent after rent

action commenced rent action is barred where landlord accepted rent without written reservation of rights (5502(d)).

b. Tenant Obligations Relating To Rental Unit; Waste (5503)

c. Rules and Regulations; Tenant Obligation (5511)

(1) Tenant must abide by rules, regulations and restrictions.

(a) To be enforceable, rules must be brought to attention of tenant at time of entry into rental agreement or afterwards if they do not work a substantial modification of lease (5511(a)(2) and (6)). If rules are brought to attention of tenant after lease is signed and they substantially modify lease, the tenant must consent in writing to be enforceable.

(b) Rules must promote the health convenience, safety, quiet and private enjoyment or welfare, place and order of tenants of the property and promote fair distribution of services for all tenants.

(c) Rules must be reasonably related to purpose for which they are promulgated.

(d) Rules must apply to all tenants in a fair manner.

(e) Rules must be sufficiently explicit and fairly inform tenant.

2. Landlord Remedies Relating to Breach of Rules and Covenants

a. Penalty for failure to follow rules: If tenant breaches any rule or covenant which is material to the rental agreement, the landlord shall notify the tenant of the breach in writing and must allow seven days for correction. Notice shall substantially specify the rule allegedly breached and advise the tenant that if violation continues after 7 days, the landlord may terminate the rental agreement and bring an action for summary possession. If tenant commits substantially similar breach within one

- year after receipt of last notice, landlord may proceed with summary possession and rely on first notice (5513(a)(1)).
- b. When tenant's breach or conviction of class A misdemeanor or felony causes or threatens to cause irreparable harm, landlord may: (1) remedy breach and bill tenant; (2) immediately terminate with notice and bring summary possession action; or (3) do both (5513(b)).
- 3. Termination upon notice of material violation of regulation given to tenant at time of rental agreement for rental of single room in building which is primary residence of landlord and contains no more than 3 rental rooms and no more than 3 tenants (5512)
 - 4. Landlord's Remedies Relating To Holdover Tenants (5515)
 - a. Landlord may seek all remedies available under breach of rules sections (5511 and 5513) for wrongful use of the unit.
 - b. Abandonment damages to Landlord.
 - (1) File action for summary possession and tenant liable for: (1) rent for remainder of term plus expenses for damages caused by tenant; or (2) fair rental value not paid before re-rented plus expenses to re-rent and repair damages plus commission payable to re-rent. Landlord has duty to mitigate damages (5507(d)).
 - c. If no appeal filed from action for summary possession, landlord may immediately store and remove tenant's items. Seven (7) days after appeal time has expired, landlord may dispose of tenant's property (5507(e)).
 - 5. Retaliatory Eviction; Retaliatory Rent Increases and Decrease In Services Prohibited (5516)
 - 6. Remedies and Court Proceedings
 - a. Distress for rent (6301 et seq.)
 - (1) Abolished except pursuant to rental agreement for a commercial unit (6301(a))
 - (2) Justices of the Peace Court shall have original jurisdiction (6301(b))
 - b. Suits for money damages

- (1) May be brought in any court (5117) including Justice of the Peace Court. J.P. Court has jurisdiction up to \$15,000.00. Appeals from J.P. Court are to Court of Common Pleas for trial de novo (10 Del. C. §9571).
 - (2) May be combined with suits for possession (5502(a) and (b))
- c. Summary actions for possession (5701 et seq.)
- (1) Exclusive jurisdiction in Justice of the Peace Court without appeal to Superior or Supreme Court. Bomba's Restaurant and Cocktail Lounge, Inc. v. Lord DeLaWarr Hotel, Inc., Del. Supr., 389 A.2d 766(1978). This includes residential and commercial leases. (5701)
 - (2) Must be maintained in the Justice of the Peace Court which is closest to the premises and the same county (5701)
 - (3) Either party may demand trial by jury (5713(a))
 - (4) Appeal from non-jury trial is de novo before a special court comprised of three Justices of the Peace (5717(a)). Appeals may include claims and counter-claims not raised in initial proceeding with filing of Bill of Particulars.
 - (5) Appeal from jury trial is review on the record by an appellate court comprised of three Justices of the Peace (5717(c)).
 - (6) Action may be maintained by landlord, owner, excluded tenant or next tenant due right of possession (5703).
 - (7) Contents of complaints (5707 and 5708).
 - (8) Stay upon payment of rent and costs or posting bond if good faith dispute (5716). However, if tenant proceeding in forma pauperis Court may waive appeal fee and bond or request for stay of writ of possession.
 - (9) Unlawful ouster may require payment of treble damages or three times per diem rent for period of ouster plus costs, whichever is greater (5313).

- (10) Waiver of fees and costs upon application of party claiming to be indigent (Proceedings in forma pauperis) (5718)
- d. Fire or Casualty Damage (5309)
 - (1) Where fire substantially impairs enjoyment of unit without fault of the tenant, the tenant may immediately quit the premises and promptly notify landlord in writing of his election to quit within one week after vacating or tenant may vacate the portion of the premises rendered unusable by fire or casualty, in which case the tenant's liability for rent shall be prorated to diminution of fair rental value. Landlord shall timely return security deposit except portion landlord entitled under the code (5309(b)).
- e. "Special"Provisions and Prohibitions
 - (1) No provision in a rental agreement providing for the recovery of attorney's fees by either party in any suit, action or proceeding arising from the tenancy shall be enforceable (5111).
 - (2) Service of notice (5113)
 - (a) Personally upon tenant by leaving a copy at rental unit or usual place of abode with an adult person residing therein (5113(a)). Upon landlord by leaving copy at landlord's address as set forth on lease with adult person residing therein.
 - (b) In lieu of personal service, by registered or certified mail or first-class mail, postage prepaid, addressed to the tenant at the leased premises or to the landlord at an address set forth in lease (5113(b)). If landlord is entity, then at office or place of business. The return receipt of notice, whether signed, refused or unclaimed if sent registered or certified or certificate of mailing if sent by first class mail considered prima facie evidence of service (5114(b)).
 - (3) Alternative Service (5113(c))
 - (a) Posting notice on rental unit.

- (b) Personal service by Court appointed process service.
 - (4) Application for Forthwith Summons (5115)
 - (a) Expedited process where landlord or tenant's person or property has been substantially or irreparably harmed.
 - f. Tenant's responsibility to report defects needing repair (5505)
 - g. Mutual promises, agreements, covenants and understanding in rental agreement mutual and dependent (5109)
 - h. Landlord-Tenant Code Summary must be given to tenant at beginning of term. Failure to do so, allows tenant to plead ignorance of the law as a defense (5118).
- I. Sample Lease
 - J. Summary of Landlord-Tenant Code

X. Americans with Disabilities Act- Property Manager Responsibilities

The Americans with Disabilities Act (ADA) became effective in July, 1990, and extends civil rights protection to persons with disabilities, defined as a person who has a physical or mental impairment that substantially limits one or more major life activities : seeing, hearing, speaking, walking, breathing, performing manual tasks, caring for oneself, or working.

The words “handicapped” or “the handicapped” are sensitive and discouraged in favor of the words “disability” and “the disabled” and “persons with disabilities.”

ADA is not a building code and not enforced as such, but rather enforced as civil rights laws unless state or local government adopts ADA requirements as part of building codes, building and inspections officers do not enforce ADA.

Since ADA is civil rights law, enforcement is by action of an aggrieved party. Remedies include injunctive relief, correction of problem, and punitive damages

The ADA has had a significant impact on the responsibilities of the property manager, both in building amenities and in employment issues. ADA compliance questions may arise with regard to a client’s property. Unless the manager or agent is a qualified ADA expert, it is best to advise clients to seek the services of an attorney, an architect, or a consultant who specializes in ADA issues.

Although the ADA is not a housing or credit law, it still has a significant effect on the real estate industry. The ADA is important because it addresses the rights of individuals with disabilities in employment and public accommodations. Real estate property managers are often employers, and real estate property management and brokerage offices are public spaces. The ADA goal is to enable individuals with disabilities to become part of the economic and social mainstream of society.

A. Employment- Title 1

Title I of the ADA provides for the employment of qualified job applicants regardless of their disability. Any employer with 15 or more employees must adopt nondiscriminatory employment procedures. In addition, employers must make reasonable accommodations to enable individuals with disabilities to perform essential job functions.

Reasonable accommodations include making the work site accessible, restructuring a job, providing part-time or flexible work schedules, and modifying equipment that is used on the job.

In 1999, the U.S. Supreme Court strictly limited the definition of "persons with disabilities" protected by the ADA. The decision excludes individuals whose disability, such as nearsightedness, can be corrected. In 2002, the U.S. Supreme Court narrowed the definition even further by stating that in determining whether a person is disabled, you need to ask whether the impairment(s) prevented or restricted the person from performing tasks that are of central importance to most people's daily lives.

B. Building Requirements- Title 3

Property managers also must be familiar with Title III of the ADA, which prohibits discrimination in commercial properties and public accommodations, and provides for accessibility to goods and services for individuals with disabilities. The ADA requires that managers ensure that people with disabilities have full and equal access to facilities and services.

While the federal civil rights laws have traditionally been viewed in the real estate industry as housing-related, the practices of licensees who deal with non-residential property are significantly affected by the ADA. Because people with disabilities have the right to full and equal access to businesses and public services under the ADA, building owners and managers must ensure that any obstacle restricting this right is eliminated. The Americans with Disabilities Act Accessibility Guidelines (ADAAG) contain detailed specifications for designing parking spaces, curb ramps,

elevators, drinking fountains, toilet facilities, and directional signs to ensure maximum accessibility.

ADA applies to commercial, non - residential property in which public goods or services are provided. The ADA requires that such properties either be free of architectural barriers or provide reasonable accommodations for people with disabilities.

The property manager typically is responsible for determining whether a building meets the ADA accessibility requirements. The property manager also must prepare a plan for retrofitting a building that is not in compliance when removal of existing barriers is "readily achievable" that is, can be performed without much difficulty or expense. There are some tax advantages available to help offset the expense of complying with ADA. ADA experts may be consulted, as may architectural designers who specialize in accessibility issues.

To protect owners of existing structures from the massive expense of extensively remodeling, the ADA recommends reasonably achievable accommodations to provide access to the facilities and services. New construction and remodeling, however, must meet higher standards of accessibility and usability because it costs less to incorporate accessible features in the design than to retrofit. Though the law intends to provide for people with disabilities, many of the accessible design features and accommodations benefit everyone.

Existing barriers must be removed when this can be accomplished in a readily achievable manner-that is, with little difficulty and at low cost. The following are typical examples of readily achievable modifications:

- Ramping or removing an obstacle from an otherwise accessible entrance
- Lowering wall-mounted public telephones
- Adding raised letters and Braille markings on elevator buttons
- Installing auditory signals in elevators
- Reversing the direction in which doors open

Alternative methods can be used to provide reasonable accommodations if extensive restructuring is impractical or if retrofitting is unduly expensive. For instance, installing a cup dispenser at a water fountain that is too high for an individual in a wheelchair may be more practical than installing a lower unit.

The federal Fair Housing Act makes it illegal to discriminate against prospective tenants on the basis of physical disability. Tenants with disabilities must be permitted to make reasonable modifications to a property at their own expense. However, if the modifications would

interfere with a future tenant's use, the landlord may require that the premises be restored to their original condition at the end of the lease term.

Neither the landlord nor the tenant may be required to make any improvements to leased property. The tenant may, however, make improvements with the landlord's permission. Any alterations generally become the landlord's property; that is, they become fixtures. However, the lease may give the tenant the right to install trade fixtures. Trade fixtures may be removed before the lease expires, provided the tenant restores the premises to their previous condition, with allowance for the wear and tear of normal use.

Federal, state, and local laws may provide additional requirements for accommodating people with disabilities. Licensees should be aware of the full range of laws ensure that their practices are in compliance.

The ADA exempts the following two types of property from its requirements:

1. Property that is covered by the Fair Housing Act; and
2. Property that is exempt from coverage by the Fair Housing Act

Some properties, however, are subject to both laws. For example, in an apartment complex, the rental office is a "place of public accommodation." As such, it is covered by the ADA and must be accessible to persons with disabilities at the owner's expense. Individual rental units would be covered by the Fair Housing Act. If a tenant wished to modify the unit to make it accessible, he or she would be responsible for the cost.

XI. Ethics

- A. Relationship to the property manager Client
 1. Type of Representation
 - a. General Agent
 - b. Employee
 2. Duties and responsibilities
- B. Relationship to the property manager Customer
 1. Type of Relationship
 2. Duties and responsibilities
- C. Ethical principles, rules and standards of conduct for the property manager
 1. The Code of Ethics as it applies to:
 - a. Realtors

- b. Employees
- c. Agents

XII. Fair Housing Act

The concept of Fair Housing seems simple enough. One may not discriminate based on specific criteria. However, the day-to-day practical application of Fair Housing can be fraught with misunderstanding and misinformation. Topics such as advertising, property management issues and the fact that many states have included additional categories to the protected classes list can confuse the even most savvy property manager or REALTOR.

Article 10 of the NAR Code of Ethics

REALTORS shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin.

REALTORS shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status or National origin. (Amended 1/90)

REALTORS, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin. (Amended 1/2000)

A. Title VIII of the Civil Rights Act of 1968, amended 1974 and 1978

1. Civil Rights Act of 1866-

Following the Civil War, Congress passed a series of laws to implement the 13th Amendment banning slavery and to eliminate its vestiges. One of these laws, the Civil Rights Act of 1866 banned discrimination in the sale, transfer, lease or use of property, including real estate and housing. All citizens were granted the same rights enjoyed by white citizens in the use, purchase, lease, transfer, etc., of real estate and property. In a 1968 decision that is still applicable today, The United States Supreme Court held, in *Jones v. Mayer*, that the 1866 Act prohibits all forms of racial discrimination in real estate, whether committed by government or private parties. Persons suing under the 1866 Act are entitled to recover actual and punitive damages, and their attorneys' fees and costs.

2. Fair Housing Act

The federal law passed in 1968 which strove to ensure equal housing opportunity for all, making it illegal to discriminate on the basis of race, color, religion, sex, or national origin. The Act was amended in 1988 and extended protection to families with children and persons with disabilities.

The Seven Fair Housing “Protected Classes” resulting from the Amendments of 1988 include race, color, religion, sex, national origin, disability, and familial status. Also, state and local governments may have additional laws and categories.

B. Fair Housing Act Restrictions-

Perhaps the most critical mistake you can make is to base your leasing or marketing decisions on prospective tenants’ membership- or non-membership- in any of the classes protected by the federal Fair Housing Act or by your state’s fair housing laws.

This means you can’t focus your business plan or advertising tactics only on Hispanics or Arab Americans and exclude African Americans, Asians, or Caucasians, for example. Likewise, you can’t market your services only in Christian-oriented publications or on television, even if you prefer to target only those who want a Christian salesperson. (Note that advertising restrictions under the Fair Housing Act apply to all forms of print and electronic media.)

Practitioners who want to specialize in senior housing and issues such as retirement and reverse mortgages face a similar challenge. Even though you may legally make customers aware you have a special expertise that can benefit seniors, you must make this knowledge available to anyone who has an interest in your skills, regardless of age or familial status. And unless a community is qualified as senior housing under HUD regulations, you must never refuse or forget to show families with children properties just because many seniors live there.

The rule not to market on the basis of membership in a protected class applies even if the protected class is one that you belong to. Also note that the Fair Housing Act makes it illegal for anyone in a brokerage office to be designated as the associate who automatically services all clients who are of the same ethnic or racial background as the associate.

Does that mean then that you can’t let tenants or owners know that you’re fluent in the language they speak? Not at all. Under the Fair Housing Act, there’s nothing wrong with marketing yourself as having certain language skills. So long as you pitch your services to the population at large, not just to those ethnic groups who speak your language, it’s fine to indicate in your promotions that you speak Arabic, Spanish, or whatever.

Then prospects can decide to choose you because you share a similar language, religion, or background, and you’re not choosing them based on some similarity they have with you.

There are other strategies you legally can use under the Fair Housing Act. First, you're usually on safe ground if you focus on a property-related niche instead of a client-related one. A niche marketing plan that's based on any of the following property types is perfectly lawful and can be quite effective: Fixer-uppers, Condominiums, Single-family homes, Resort Housing, Properties in foreclosure, Environment-friendly buildings, Golf course communities, or Homes on the historic register.

Second, you can focus on individuals' specific needs that are not covered by fair housing: relocation, interesting living near particular hobby or sports offerings, and level of understanding about the buying and selling process. It's perfectly lawful, for example, to market empty-nest tenants so long as you don't make assumptions about likelihood of any group- such as recent Hispanic or Asian immigrants- being empty-nesters.

So, you see, it's possible to follow the advice of the marketing gurus and target a niche without violating the Fair Housing Act. But be inclusive in your marketing, allowing perspective tenants and clients to choose whether they want you to represent them. As for the questions not yet answered by HUD or the courts, play it safe and abide by clear-cut rules.

C. Fair Housing Act Practices-

Educate owners about fair housing laws and explain what they mean in property management transaction

Treat all prospective tenants in substantially the same way. Use the same approach and manner to greet people, show properties, qualify prospects, obtain management contracts, conduct open houses, present lease offers, keep records, and follow up with tenants.

Use forms or checklists to standardize the questions you ask and the information you request from prospective tenants.

Market your properties to a diverse group of prospective tenants. Avoid using exclusionary words or pictures. Any marketing plan that indicates a preference or limitation or discriminates on the basis of race, color, religion, sex, handicap, familial status or national origin violates the Fair Housing Act.

Allow prospective tenants to select their own preferred neighborhoods. Never "steer" prospects toward or away from any neighborhood, however subtly. Offer every prospect a variety of housing choices.

Contact local fair housing organizations and REALTOR associations for information about fair housing compliance and compliance self-testing. Fair housing guidance is posted online at NAR's Library, the U.S. Department of Housing and Urban Development, and The National Fair Housing Advocate.

Be vocal and be proactive in expressing your own personal commitment to fair housing.

Include a statement in your advertising stating your company doesn't discriminate on the basis of race, color, religion, national origin, sex, handicap or familial status. A statement isn't absolute protection against liability for noncompliance, but it can be used as evidence of your company's commitment to fair housing.

You can't control the prejudices of others, but discriminating in any way, even at the request of an owner/client, is illegal. If an owner/client wants you to discriminate, walk away from the relationship.

- D. Fair Housing Act advertising guidelines-
Be careful not to exclude any of the protected classes etc.
- E. Fair Housing Act enforcement provisions-
About Fair Housing And Equal Opportunity (FHEO)

The mission of FHEO is to create equal housing opportunities for all persons living in America by administering laws that prohibit discrimination in housing on the basis of race, color, religion, sex, national origin, age, disability, and familial status.

The Office of Fair Housing and Equal Opportunity administers federal laws and establishes national policies that make sure all Americans have equal access to the housing of their choice.

Particular activities carried out by the Office of Fair Housing and Equal Opportunity include implementing and enforcing the Fair Housing Act and other civil rights laws, including Title VI of the Civil Rights Act of 1964, Section 109 of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Title IX of the Education amendments Act of 1972, and the Architectural Barriers Act of 1968.

Additionally, FHEO:

- A. Manages the Fair Housing Assistance Program, administer the award and management of Fair Housing Initiatives Program grants, and propose fair housing legislation;
- B. Works with other government agencies on fair housing issues;
- C. Reviews and comments on Departmental clearances of proposed rules, handbooks, legislation, draft reports, and notices of funding availability for fair housing considerations;
- D. Interprets policy, processes complaints, performs compliance reviews and offers technical assistance to local housing authorities and community development agencies regarding Section 3 of the Housing and Urban Development Act of 1968;
- E. Ensures the enforcement of federal laws relating to the elimination of all forms of discrimination in HUD's employment practices;
- F. Conducts oversight of the Government-Sponsored Enterprises, Fannie Mae and Freddie Mac, to ensure consistency with the Fair Housing Act and the fair housing provisions of the Federal Housing Enterprises Financial Safety and Soundness Act; and
- G. Works with private industry, fair-housing and community advocates on the promotion of voluntary fair housing compliance.

HUD investigates complaints of housing discrimination based on race, color, religion, national origin, sex, disability, or familial status. At no cost, HUD will investigate the complaint and attempt to conciliate the matter with both parties. If conciliation fails, HUD will determine whether "reasonable cause" exists to believe that a discriminatory housing practice has occurred. If HUD finds "no reasonable cause," the Department dismisses the complaint. If HUD finds reasonable cause, the Department will issue a charge of discrimination and schedule a hearing before a HUD administrative law judge(ALJ). Either party may elect to proceed in federal court. In that case, the Department of Justice will pursue the case on behalf of the complainant. The decisions of the ALJ and the federal district court are subject to review by the U.S. Court of Appeals.

For DE, DC, MD, PA, VA, and WV:

Philadelphia Regional Office of FHEO
 U.S. Department of Housing and Urban Development
 The Wanamaker Building
 100 Penn Square East, 12th floor
 Philadelphia, PA 19107-3380

(215) 656-0663 ext 3241
1-888-799-2085
TTY (215) 656-3450

- F. Broker/Agent responsibilities
Promote Fair Housing Company-wide by establishing a system for monitoring fair housing compliance among your associates.

Conduct fair housing training annually and as part of all new-associate orientation, and link to organizational meetings on fair housing.

Be sure that advertising complies with fair housing regulations.

Post “equal opportunity in housing” materials prominently.

Check regularly for updates on fair housing regulations at the federal and state levels.

Consider purchasing copies of books, pamphlets, articles, and brochures concerning Fair Housing compliance and distribute to your sales and leasing associates, clients, and prospective tenants.

XIII. Sources of Property Management Business

- A. Condominium Associations
 - 1. Make sure every party is given condo rules and regulations.
 - 2. Can condo be rented and under what conditions?
- B. Absentee property owners
 - 1. Property owners moving, but desiring to keep property to return to.
 - 2. Meet all local codes for absentee landlords.
- C. Homeowners Associations
 - 1. Get deed restrictions and Homeowner’s Association rules for development.
 - 2. Who is responsible for what fees and costs?
- D. Developers and landlords
- E. Community Associations
 - 1. Get association’s rules and regulations.
 - 2. What is lease responsible for other than rental payments.

XIV. Local Rules, Regulations and Laws

Beyond federal laws and regulations imposed by ADA, and Fair Housing Act, the state, county and municipal governments likewise impose laws, statutes, ordinances, and regulations governing housing supply and occupancy.

A. State

The state government regulates housing through regulations governing sewage disposal, potable water, and other similar items.

The state does not regulate zoning, and typically does not regulate housing and building codes.

B. County

The county government regulates zoning, and typically regulates housing and building codes.

C. Municipal

The city government may also regulate zoning, and typically regulates housing and building codes and ordinances with occupancy regulations, sound ordinances, and other similar items.

XV. Review a Property Management Agreement

- A. Agreement must be in writing, spelling out what the management responsibilities are, the fees to be paid, properties to be leased and to whom, etc., commercial, residential, farm land.
- B. Types of agreements such as commercial, residential, condo, farms, mobile homes, etc.

XVI. Discussion, Question and Answers